

Nixon Peabody LLP
Attorneys at LawClinton Square
P.O. Box 31051
Rochester, New York 14603-1051
(585) 263-1000

Fax: (585) 263-1600

PRIVILEGE AND CONFIDENTIALITY NOTICE

The information in this fax is intended for the named recipients only. It contains privileged and confidential matter. If you have received this fax in error, please notify us immediately by a collect telephone call to (585) 263-1000 and return the original to the sender by mail. We will reimburse you for postage. Do not disclose the contents to anyone. Thank you.

FAX

To:	Company	Fax #:	Telephone #:
1) Examiner A. Kubelik Art Unit 1638	USPTO	(703) 746-4990	(703) 308-5059
2)			
3)			
4)			
5)			

INTERNATIONAL PHONE NUMBERS MUST INCLUDE COUNTRY & CITY CODE. SEE LOCAL WHITE PAGES FOR CODES NEEDED.

From: Michael L. Goldman	Date: June 19, 2003	No. of Pages: 8 (including this page)	
Comments: RE: Serial No. 09/025,635 filed February 18, 1998			

Original of the transmitted document will be sent by:

☐ First Class Mail ☐ Overnight Mail ☐ Hand Delivery ☐ This transmission will be the only form of delivery of this document

IF YOU DO NOT RECEIVE ALL OF THESE PAGES, PLEASE CONTACT THE FAX OPERATOR AS SOON AS POSSIBLE AT: (585) 263-1660 or 263-1000 (ext. 1660). THANK YOU.

CONFIRMATION: DATE SENT _____ TIME _____ BY _____

INTEROFFICE TO: ☐ Albany ☐ Boston ☐ Buffalo ☐ Garden City ☐ Hartford ☐ Manchester ☐ New York City
☐ Northern Virginia ☐ Orange County ☐ Providence ☐ Rochester ☐ San Francisco ☐ Washington

To:	Company	Fax #:	Telephone #:
1) Examiner A. Kubelik Art Unit 1638	USPTO	(703) 746-4990	(703) 308-5059
2)			
3)			
4)			
5)			

INTERNATIONAL PHONE NUMBERS MUST INCLUDE COUNTRY & CITY CODE. SEE LOCAL WHITE PAGES FOR CODES NEEDED.

From: Michael L. Goldman	Date: June 19, 2003	No. of Pages: 8 (including this page)	Client/Matter: 19603/1552
User #: 1206	Ext: 1304	Disbursement Amount: \$	

R687499.1

Received from < 585 263 1600 > at 6/19/03 3:30:00 PM [Eastern Daylight Time]

#26128
6/28/03

CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL

Submit an original, and a duplicate for fee processing.
(Only for Continuation or Divisional applications under 37 CFR 1.53(d))

CHECK BOX, if applicable:

☐ DUPLICATE

Address to: Mail Stop CPA Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Attorney Docket No. of Prior Application	19603/1552 (CRF D-2052D)
	First Named Inventor	Sheng-Zhi Pang
	Examiner Name	A. Kubelik
	Group Art Unit	1638
	Express Mail Label No.	EV138584834US

This is a request for a ☒ continuation or ☐ divisional application under 37 CFR 1.53(d), (continued prosecution application (CPA)) of prior application number 09/025,635, filed on February 18, 1998, entitled DNA CONSTRUCT TO CONFER MULTIPLE TRAITS ON PLANTS.

NOTES

FILING QUALIFICATIONS: The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000).

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provided credit card information and authorization on PTO-2038.

1. ☐ Enter the unentered amendment previously filed on _____ under 37 CFR 1.116 in the prior nonprovisional application.
2. ☐ A preliminary amendment is enclosed.
3. This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
 - a. ☐ **DELETE** the following inventor(s) named in the prior nonprovisional application:

 - b. ☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4. ☐ A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. Information Disclosure Statement (IDS) is enclosed:
 - a. ☐ PTO-1449
 - b. ☐ Copies of IDS Citations

CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
TOTAL CLAIMS (37 CFR 1.16(c) or (j))		77 - 20 =	57	x \$18 =	\$1026.00
INDEPENDENT CLAIMS (37 CFR 1.16(b) or (i))		2 - 3 =	0	x \$84 =	\$0.00
MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR 1.16(d))					+ \$ =
					BASIC FEE (37 CFR 1.16)
					\$750.00
Total of above Calculations =					\$1776.00
Reduction by 50% for filing by small entity (Note 37 CFR 1.27).					
* Reissue claims in excess of 20 and over original patent. ** Reissue independent claims over original patent.					
TOTAL =					\$

6. ☐ Small entity status: Applicant claims small entity status. See 37 CFR 1.27.

7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 14-1138:

a. ☐ Fees required under 37 CFR 1.16.

b. ☐ Fees required under 37 CFR 1.17.

c. ☐ Fees required under 37 CFR 1.18.

8. ☒ A check to cover the \$1776.00 filing fee is enclosed.

9. ☐ Payment by credit card. Form PTO-2038 is attached.

10. ☐ Applicant requests suspension of action under 37 CFR 1.103(b) for a period of _____ months (not to exceed 3 months) and the fee under 37 CFR 1.17(i) is enclosed.

11. ☐ New Attorney Docket Number, if desired _____
(Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.)

12. a. ☐ Receipt For Facsimile Transmitted CPA (PTO/SE/29A)


b. ☐ Return Receipt Postcard (Should be specifically itemized, See MPEP 503)

13. ☐ Other: _____

NOTE:

The prior application's correspondence address will carry over to this CPA
UNLESS a new correspondence address is provided below.

14. NEW CORRESPONDENCE ADDRESS					
<input type="checkbox"/> Customer Number of Bar Code Label			or <input checked="" type="checkbox"/> New correspondence address below		
(Insert Customer No. or Attach bar code label here)					
Name	Nixon Peabody LLP				
Address	Clinton Square, P.O. Box 31051				
City	Rochester	State	NY	Zip Code	14603-1051
Country	USA	Telephone	(585) 263-1304	Fax	(585) 263-1600

15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED	
Name (Print/Type)	Edwin V. Merkel
Signature	
Registration No. (Attorney/Agent)	40,087
Date	May 27, 2003

EXPRESS MAIL CERTIFICATE


DOCKET NO.: 19603/1552 (CRF D-2052D)
APPLICANTS: Sheng-Zhi Pang, Dennis Gonsalves, and Fuh-Jyh Jan
TITLE: DNA CONSTRUCT TO CONFER MULTIPLE TRAITS ON PLANTS

Certificate is attached to the Fee Transmittal (1 page) (in duplicate) of the above-named application.

EXPRESS MAIL NUMBER: EV138584834US
DATE OF DEPOSIT: May 27, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop CPA, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Shawn A. Lockett
(Typed or printed name of person
mailing paper or fee)


(Signature of person mailing paper
or fee)

FEE TRANSMITTAL FOR FY 2003

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$2,186

Complete if Known

Application Number 09/025,635
Filing Date February 18, 1998
First Named Inventor Sheng-Zhi Pang
Examiner Name A. Kubelik
Art Unit 1638
Attorney Docket No. 19603/1552 (CRF D-2052D)

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number 14-1138

Deposit Account Name Nixon Peabody LLP

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
1001	750	2001	375	Utility filing fee	750
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$ 750)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
77	-20** = 57	X 18	= 1026
Independent Claims	2	-3** = 0	X 84 = 0
Multiple Dependent		X	= 0

Large Entity		Small Entity		<u>Fee Description</u>
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent
SUBTOTAL (2)				(\$1,026)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description
1051	130	2051	65	Surcharge - late filing fee or oath
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet
1053	130	2053	130	Non-English specification
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action
1251	110	2251	55	Extension for reply within first month
1252	410	2252	205	Extension for reply within second month
1253	930	2253	465	Extension for reply within third month
1254	1,450	2254	725	Extension for reply within fourth month
1255	1,970	2255	985	Extension for reply within fifth month
1401	320	2401	160	Notice of Appeal
1402	320	2402	160	Filing a brief in support of an appeal
1403	280	2403	140	Request for oral hearing
1451	1,510	2451	1,510	Petition to institute a public use proceeding
1452	110	2452	55	Petition to revive - unavoidable
1453	1,300	2453	650	Petition to revive - unintentional
1501	1,300	2501	650	Utility issue fee (or reissue)
1502	470	2502	235	Design issue fee
1503	630	2503	315	Plant issue fee
1460	130	2460	130	Petitions to the Commissioner
1807	50	2807	50	Processing fee under 37 CFR 1.17(g)
1806	180	2806	180	Submission of Information Disclosure Stmt
8021	40	2821	40	Recording each patent assignment per property (times number of properties)
1809	750	2809	375	Filing a submission after final rejection (37 CFR 1.129(a))
1810	750	2810	375	For each additional invention to be examined (37 CFR 1.129(b))
1801	750	2801	375	Request for Continued Examination (RCE)
1802	900	2802	900	Request for expedited examination of a design application

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 410

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to Mail Stop CPA, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or being facsimile transmitted to the USPTO at _____, on _____.

Signature: _____

Name: Jo Ann Whalen

SUBMITTED BY

Name (Print/Type) Edwin V. Merkel Registration No. 40,087 Telephone (585) 263-1128
Signature *Edwin V. Merkel* (Attorney/Agent) Date May 27, 2003

Complete (if applicable)